No. 17–965

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, et al., PETITIONERS v. HAWAII, et al.

On writ of certiorari to the United States Court of Appeals for the Ninth Circuit

[June 26, 2018]

Chief Justice Roberts delivered the opinion of the Court.

Under the Immigration and Nationality Act, foreign nationals seeking entry into the United States undergo a vetting process to ensure that they satisfy the numerous requirements for admission. The Act also vests the President with authority to restrict the entry of aliens when- ever he finds that their entry “would be detrimental to the interests of the United States.” 8 U. S. C. §1182(f). Relying on that delegation, the President concluded that it was necessary to impose entry restrictions on nationals of countries that do not share adequate information for an informed entry determination, or that otherwise present national security risks. Presidential Proclamation No. 9645, 82 Fed. Reg. 45161 (2017) (Proclamation). The plaintiffs in this litigation, respondents here, challenged the application of those entry restrictions to certain aliens abroad. We now decide whether the President had authority under the Act to issue the Proclamation, and whether the entry policy violates the Establishment Clause of the First Amendment.

I

A

Shortly after taking office, President Trump signed Executive Order No. 13769, Protecting the Nation From Foreign Terrorist Entry Into the United States. 82 Fed. Reg. 8977 (2017) (EO–1). EO–1 directed the Secretary of Homeland Security to conduct a review to examine the adequacy of information provided by foreign governments about their nationals seeking to enter the United States. §3(a). Pending that review, the order suspended for 90 days the entry of foreign nationals from seven countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—that had been previously identified by Congress or prior administrations as posing heightened terrorism risks. §3(c). The District Court for the Western District of Washington entered a temporary restraining order blocking the entry restrictions, and the Court of Appeals for the Ninth Circuit denied the Government’s request to stay that order. Washington v. Trump, 847 F. 3d 1151 (2017) (per curiam).

In response, the President revoked EO–1, replacing it with Executive Order No. 13780, which again directed a worldwide review. 82 Fed. Reg. 13209 (2017) (EO–2). Citing investigative burdens on agencies and the need to diminish the risk that dangerous individuals would enter without adequate vetting, EO–2 also temporarily restricted the entry (with case-by-case waivers) of foreign nationals from six of the countries covered by EO–1: Iran, Libya, Somalia, Sudan, Syria, and Yemen. §§2(c), 3(a). The order explained that those countries had been selected because each “is a state sponsor of terrorism, has been significantly compromised by terrorist organizations, or contains active conflict zones.” §1(d). The entry restriction was to stay in effect for 90 days, pending completion of the worldwide review.

These interim measures were immediately challenged in court. The District Courts for the Districts of Maryland and Hawaii entered nationwide preliminary injunctions barring enforcement of the entry suspension, and the respective Courts of Appeals upheld those injunctions, albeit on different grounds. International Refugee Assistance Project (IRAP) v. Trump, 857 F. 3d 554 (CA4 2017); Hawaii v. Trump, 859 F. 3d 741 (CA9 2017) (per curiam). This Court granted certiorari and stayed the injunctions—allowing the entry suspension to go into effect—with respect to foreign nationals who lacked a “credible claim of a bona fide relationship” with a person or entity in the United States. Trump v. IRAP, 582 U. S. \_\_\_, \_\_\_ (2017) (per curiam) (slip op., at 12). The temporary restrictions in EO–2 expired before this Court took any action, and we vacated the lower court decisions as moot. Trump v. IRAP, 583 U. S. \_\_\_ (2017); Trump v. Hawaii, 583 U. S. \_\_\_ (2017).

On September 24, 2017, after completion of the worldwide review, the President issued the Proclamation before us—Proclamation No. 9645, Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats. 82 Fed. Reg. 45161. The Proclamation (as its title indicates) sought to improve vetting procedures by identifying ongoing deficiencies in the information needed to assess whether nationals of particular countries present “public safety threats.” §1(a). To further that purpose, the Proclamation placed entry restrictions on the nationals of eight foreign states whose systems for managing and sharing information about their nationals the President deemed inadequate.

The Proclamation described how foreign states were selected for inclusion based on the review undertaken pursuant to EO–2. As part of that review, the Department of Homeland Security (DHS), in consultation with the State Department and several intelligence agencies, developed a “baseline” for the information required from foreign governments to confirm the identity of individuals seeking entry into the United States, and to determine whether those individuals pose a security threat. §1(c). The baseline included three components. The first, “identity-management information,” focused on whether a foreign government ensures the integrity of travel documents by issuing electronic passports, reporting lost or stolen passports, and making available additional identity-related information. Second, the agencies considered the extent to which the country discloses information on criminal history and suspected terrorist links, provides travel document exemplars, and facilitates the U. S. Government’s receipt of information about airline passengers and crews traveling to the United States. Finally, the agencies weighed various indicators of national security risk, including whether the foreign state is a known or potential terrorist safe haven and whether it regularly declines to receive returning nationals following final orders of removal from the United States. Ibid.

DHS collected and evaluated data regarding all foreign governments. §1(d). It identified 16 countries as having deficient information-sharing practices and presenting national security concerns, and another 31 countries as “at risk” of similarly failing to meet the baseline. §1(e). The State Department then undertook diplomatic efforts over a 50-day period to encourage all foreign governments to improve their practices. §1(f ). As a result of that effort, numerous countries provided DHS with travel document exemplars and agreed to share information on known or suspected terrorists. Ibid.

Following the 50-day period, the Acting Secretary of Homeland Security concluded that eight countries—Chad, Iran, Iraq, Libya, North Korea, Syria, Venezuela, and Yemen—remained deficient in terms of their risk profile and willingness to provide requested information. The Acting Secretary recommended that the President impose entry restrictions on certain nationals from all of those countries except Iraq. §§1(g), (h). She also concluded that although Somalia generally satisfied the information-sharing component of the baseline standards, its “identity-management deficiencies” and “significant terrorist presence” presented special circumstances justifying additional limitations. She therefore recommended entry limitations for certain nationals of that country. §1(i). As for Iraq, the Acting Secretary found that entry limitations on its nationals were not warranted given the close cooperative relationship between the U. S. and Iraqi Governments and Iraq’s commitment to combating ISIS. §1(g).

After consulting with multiple Cabinet members and other officials, the President adopted the Acting Secretary’s recommendations and issued the Proclamation. Invoking his authority under 8 U. S. C. §§1182(f ) and 1185(a), the President determined that certain entry restrictions were necessary to “prevent the entry of those foreign nationals about whom the United States Government lacks sufficient information”; “elicit improved identity- management and information-sharing protocols and practices from foreign governments”; and otherwise “advance [the] foreign policy, national security, and counterterrorism objectives” of the United States. Proclamation §1(h). The President explained that these restrictions would be the “most likely to encourage cooperation” while “protect[ing] the United States until such time as improvements occur.” Ibid.

The Proclamation imposed a range of restrictions that vary based on the “distinct circumstances” in each of the eight countries. Ibid. For countries that do not cooperate with the United States in identifying security risks (Iran, North Korea, and Syria), the Proclamation suspends entry of all nationals, except for Iranians seeking nonimmigrant student and exchange-visitor visas. §§2(b)(ii), (d)(ii), (e)(ii). For countries that have information-sharing deficiencies but are nonetheless “valuable counterterrorism partner[s]” (Chad, Libya, and Yemen), it restricts entry of nationals seeking immigrant visas and nonimmigrant business or tourist visas. §§2(a)(i), (c)(i), (g)(i). Because Somalia generally satisfies the baseline standards but was found to present special risk factors, the Proclamation suspends entry of nationals seeking immigrant visas and requires additional scrutiny of nationals seeking nonimmigrant visas. §2(h)(ii). And for Venezuela, which refuses to cooperate in information sharing but for which alternative means are available to identify its nationals, the Proclamation limits entry only of certain government officials and their family members on nonimmigrant business or tourist visas. §2(f )(ii).

The Proclamation exempts lawful permanent residents and foreign nationals who have been granted asylum. §3(b). It also provides for case-by-case waivers when a foreign national demonstrates undue hardship, and that his entry is in the national interest and would not pose a threat to public safety. §3(c)(i); see also §3(c)(iv) (listing examples of when a waiver might be appropriate, such as if the foreign national seeks to reside with a close family member, obtain urgent medical care, or pursue significant business obligations). The Proclamation further directs DHS to assess on a continuing basis whether entry restrictions should be modified or continued, and to report to the President every 180 days. §4. Upon completion of the first such review period, the President, on the recommendation of the Secretary of Homeland Security, determined that Chad had sufficiently improved its practices, and he accordingly lifted restrictions on its nationals. Presidential Proclamation No. 9723, 83 Fed. Reg. 15937 (2018).

B

Plaintiffs in this case are the State of Hawaii, three individuals (Dr. Ismail Elshikh, John Doe #1, and John Doe #2), and the Muslim Association of Hawaii. The State operates the University of Hawaii system, which recruits students and faculty from the designated countries. The three individual plaintiffs are U. S. citizens or lawful permanent residents who have relatives from Iran, Syria, and Yemen applying for immigrant or nonimmigrant visas. The Association is a nonprofit organization that operates a mosque in Hawaii.

Plaintiffs challenged the Proclamation—except as applied to North Korea and Venezuela—on several grounds. As relevant here, they argued that the Proclamation contravenes provisions in the Immigration and Nationality Act (INA), 66Stat. 187, as amended. Plaintiffs further claimed that the Proclamation violates the Establishment Clause of the First Amendment, because it was motivated not by concerns pertaining to national security but by animus toward Islam.

The District Court granted a nationwide preliminary injunction barring enforcement of the entry restrictions. The court concluded that the Proclamation violated two provisions of the INA: §1182(f ), because the President did not make sufficient findings that the entry of the covered foreign nationals would be detrimental to the national interest, and §1152(a)(1)(A), because the policy discriminates against immigrant visa applicants on the basis of nationality. 265 F. Supp. 3d 1140, 1155–1159 (Haw. 2017). The Government requested expedited briefing and sought a stay pending appeal. The Court of Appeals for the Ninth Circuit granted a partial stay, permitting enforcement of the Proclamation with respect to foreign nationals who lack a bona fide relationship with the United States. This Court then stayed the injunction in full pending disposition of the Government’s appeal. 583 U. S. \_\_\_ (2017).

The Court of Appeals affirmed. The court first held that the Proclamation exceeds the President’s authority under §1182(f ). In its view, that provision authorizes only a “temporary” suspension of entry in response to “exigencies” that “Congress would be ill-equipped to address.” 878 F. 3d 662, 684, 688 (2017). The court further reasoned that the Proclamation “conflicts with the INA’s finely reticulated regulatory scheme” by addressing “matters of immigration already passed upon by Congress.” Id., at 685, 690. The Ninth Circuit then turned to §1152(a)(1)(A) and determined that the entry restrictions also contravene the prohibition on nationality-based discrimination in the issuance of immigrant visas. The court did not reach plaintiffs’ Establishment Clause claim.

We granted certiorari. 583 U. S. \_\_\_ (2018).

II

Before addressing the merits of plaintiffs’ statutory claims, we consider whether we have authority to do so. The Government argues that plaintiffs’ challenge to the Proclamation under the INA is not justiciable. Relying on the doctrine of consular nonreviewability, the Government contends that because aliens have no “claim of right” to enter the United States, and because exclusion of aliens is “a fundamental act of sovereignty” by the political branches, review of an exclusion decision “is not within the province of any court, unless expressly authorized by law.” United States ex rel. Knauff v. Shaughnessy, 338 U. S. 537, 542–543 (1950). According to the Government, that principle barring review is reflected in the INA, which sets forth a comprehensive framework for review of orders of removal, but authorizes judicial review only for aliens physically present in the United States. See Brief for Petitioners 19–20 (citing 8 U. S. C. §1252).

The justiciability of plaintiffs’ challenge under the INA presents a difficult question. The Government made similar arguments that no judicial review was available in Sale v. Haitian Centers Council, Inc., 509 U. S. 155 (1993). The Court in that case, however, went on to consider on the merits a statutory claim like the one before us without addressing the issue of reviewability. The Government does not argue that the doctrine of consular nonreview- ability goes to the Court’s jurisdiction, see Tr. of Oral Arg. 13, nor does it point to any provision of the INA that expressly strips the Court of jurisdiction over plaintiffs’ claims, see Sebelius v. Auburn Regional Medical Center, 568 U. S. 145, 153 (2013) (requiring Congress to “clearly state[ ]” that a statutory provision is jurisdictional). As a result, we may assume without deciding that plaintiffs’ statutory claims are reviewable, notwithstanding consular nonreviewability or any other statutory nonreviewability issue, and we proceed on that basis.

Part III Omitted

IV

A

We now turn to plaintiffs’ claim that the Proclamation was issued for the unconstitutional purpose of excluding Muslims. Because we have an obligation to assure ourselves of jurisdiction under Article III, we begin by addressing the question whether plaintiffs have standing to bring their constitutional challenge.

Federal courts have authority under the Constitution to decide legal questions only in the course of resolving “Cases” or “Controversies.” Art. III, §2. One of the essential elements of a legal case or controversy is that the plaintiff have standing to sue. Standing requires more than just a “keen interest in the issue.” Hollingsworth v. Perry, 570 U. S. 693, 700 (2013). It requires allegations—and, eventually, proof—that the plaintiff “personal[ly]” suffered a concrete and particularized injury in connection with the conduct about which he complains. Spokeo, Inc. v. Robins, 578 U. S. \_\_\_, \_\_\_ (2016) (slip op., at 7). In a case arising from an alleged violation of the Establishment Clause, a plaintiff must show, as in other cases, that he is “directly affected by the laws and practices against which [his] complaints are directed.” School Dist. of Abington Township v. Schempp, 374 U. S. 203, 224, n. 9 (1963). That is an issue here because the entry restrictions apply not to plaintiffs themselves but to others seeking to enter the United States.

Plaintiffs first argue that they have standing on the ground that the Proclamation “establishes a disfavored faith” and violates “their own right to be free from federal [religious] establishments.” Brief for Respondents 27–28 (emphasis deleted). They describe such injury as “spirit- ual and dignitary.” Id., at 29.

We need not decide whether the claimed dignitary interest establishes an adequate ground for standing. The three individual plaintiffs assert another, more concrete injury: the alleged real-world effect that the Proclamation has had in keeping them separated from certain relatives who seek to enter the country. See ibid.; Town of Chester v. Laroe Estates, Inc., 581 U. S. \_\_\_, \_\_\_–\_\_\_ (2017) (slip op., at 5–6) (“At least one plaintiff must have standing to seek each form of relief requested in the complaint.”). We agree that a person’s interest in being united with his relatives is sufficiently concrete and particularized to form the basis of an Article III injury in fact. This Court has previously considered the merits of claims asserted by United States citizens regarding violations of their personal rights allegedly caused by the Government’s exclusion of particular foreign nationals. See Kerry v. Din, 576 U. S. \_\_\_, \_\_\_ (2015) (plurality opinion) (slip op., at 15); id., at \_\_\_ (Kennedy, J., concurring in judgment) (slip op., at 1); Kleindienst v. Mandel, 408 U. S. 753, 762 (1972). Likewise, one of our prior stay orders in this litigation recognized that an American individual who has “a bona fide relationship with a particular person seeking to enter the country . . . can legitimately claim concrete hardship if that person is excluded.” Trump v. IRAP, 582 U. S., at \_\_\_ (slip op., at 13).

The Government responds that plaintiffs’ Establishment Clause claims are not justiciable because the Clause does not give them a legally protected interest in the admission of particular foreign nationals. But that argument—which depends upon the scope of plaintiffs’ Establishment Clause rights—concerns the merits rather than the justiciability of plaintiffs’ claims. We therefore conclude that the individual plaintiffs have Article III standing to challenge the exclusion of their relatives under the Establishment Clause.

B

The First Amendment provides, in part, that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Our cases recognize that “[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.” Larson v. Valente, 456 U. S. 228, 244 (1982). Plaintiffs believe that the Proclamation violates this prohibition by singling out Muslims for disfavored treatment. The entry suspension, they contend, operates as a “religious gerrymander,” in part because most of the countries covered by the Proclamation have Muslim-majority populations. And in their view, deviations from the information-sharing baseline criteria suggest that the results of the multi-agency review were “foreordained.” Relying on Establishment Clause precedents concerning laws and policies applied domestically, plaintiffs allege that the primary purpose of the Proclamation was religious animus and that the President’s stated concerns about vetting protocols and national security were but pretexts for discriminating against Muslims. Brief for Respondents 69–73.

At the heart of plaintiffs’ case is a series of statements by the President and his advisers casting doubt on the official objective of the Proclamation. For example, while a candidate on the campaign trail, the President published a “Statement on Preventing Muslim Immigration” that called for a “total and complete shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on.” App. 158. That statement remained on his campaign website until May 2017. Id., at 130–131. Then-candidate Trump also stated that “Islam hates us” and asserted that the United States was “having problems with Muslims coming into the country.” Id., at 120–121, 159. Shortly after being elected, when asked whether violence in Europe had affected his plans to “ban Muslim immigration,” the President replied, “You know my plans. All along, I’ve been proven to be right.” Id., at 123.

One week after his inauguration, the President issued EO–1. In a television interview, one of the President’s campaign advisers explained that when the President “first announced it, he said, ‘Muslim ban.’ He called me up. He said, ‘Put a commission together. Show me the right way to do it legally.’ ” Id., at 125. The adviser said he assembled a group of Members of Congress and lawyers that “focused on, instead of religion, danger. . . . [The order] is based on places where there [is] substantial evidence that people are sending terrorists into our country.” Id., at 229.

Plaintiffs also note that after issuing EO–2 to replace EO–1, the President expressed regret that his prior order had been “watered down” and called for a “much tougher version” of his “Travel Ban.” Shortly before the release of the Proclamation, he stated that the “travel ban . . . should be far larger, tougher, and more specific,” but “stupidly that would not be politically correct.” Id., at 132–133. More recently, on November 29, 2017, the President retweeted links to three anti-Muslim propaganda videos. In response to questions about those videos, the President’s deputy press secretary denied that the President thinks Muslims are a threat to the United States, explaining that “the President has been talking about these security issues for years now, from the campaign trail to the White House” and “has addressed these issues with the travel order that he issued earlier this year and the companion proclamation.” IRAP v. Trump, 883 F. 3d 233, 267 (CA4 2018).

The President of the United States possesses an extraordinary power to speak to his fellow citizens and on their behalf. Our Presidents have frequently used that power to espouse the principles of religious freedom and tolerance on which this Nation was founded. In 1790 George Washington reassured the Hebrew Congregation of Newport, Rhode Island that “happily the Government of the United States . . . gives to bigotry no sanction, to persecution no assistance [and] requires only that they who live under its protection should demean themselves as good citizens.” 6 Papers of George Washington 285 (D. Twohig ed. 1996). President Eisenhower, at the opening of the Islamic Center of Washington, similarly pledged to a Muslim audience that “America would fight with her whole strength for your right to have here your own church,” declaring that “[t]his concept is indeed a part of America.” Public Papers of the Presidents, Dwight D. Eisenhower, June 28, 1957, p. 509 (1957). And just days after the attacks of September 11, 2001, President George W. Bush returned to the same Islamic Center to implore his fellow Americans—Muslims and non-Muslims alike—to remember during their time of grief that “[t]he face of terror is not the true faith of Islam,” and that America is “a great country because we share the same values of respect and dignity and human worth.” Public Papers of the Presidents, George W. Bush, Vol. 2, Sept. 17, 2001, p. 1121 (2001). Yet it cannot be denied that the Federal Government and the Presidents who have carried its laws into effect have—from the Nation’s earliest days—performed unevenly in living up to those inspiring words.

Plaintiffs argue that this President’s words strike at fundamental standards of respect and tolerance, in violation of our constitutional tradition. But the issue before us is not whether to denounce the statements. It is instead the significance of those statements in reviewing a Presidential directive, neutral on its face, addressing a matter within the core of executive responsibility. In doing so, we must consider not only the statements of a particular President, but also the authority of the Presidency itself.

The case before us differs in numerous respects from the conventional Establishment Clause claim. Unlike the typical suit involving religious displays or school prayer, plaintiffs seek to invalidate a national security directive regulating the entry of aliens abroad. Their claim accordingly raises a number of delicate issues regarding the scope of the constitutional right and the manner of proof. The Proclamation, moreover, is facially neutral toward religion. Plaintiffs therefore ask the Court to probe the sincerity of the stated justifications for the policy by reference to extrinsic statements—many of which were made before the President took the oath of office. These various aspects of plaintiffs’ challenge inform our standard of review.

C

For more than a century, this Court has recognized that the admission and exclusion of foreign nationals is a “fundamental sovereign attribute exercised by the Government’s political departments largely immune from judicial control.” Fiallo v. Bell, 430 U. S. 787, 792 (1977); see Harisiades v. Shaughnessy, 342 U. S. 580, 588–589 (1952) (“[A]ny policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations [and] the war power.”). Because decisions in these matters may implicate “relations with foreign powers,” or involve “classifications defined in the light of changing political and economic circumstances,” such judgments “are frequently of a character more appropriate to either the Legislature or the Executive.” Mathews v. Diaz, 426 U. S. 67, 81 (1976).

Nonetheless, although foreign nationals seeking admission have no constitutional right to entry, this Court has engaged in a circumscribed judicial inquiry when the denial of a visa allegedly burdens the constitutional rights of a U. S. citizen. In Kleindienst v. Mandel, the Attorney General denied admission to a Belgian journalist and self-described “revolutionary Marxist,” Ernest Mandel, who had been invited to speak at a conference at Stanford University. 408 U. S., at 756–757. The professors who wished to hear Mandel speak challenged that decision under the First Amendment, and we acknowledged that their constitutional “right to receive information” was implicated. Id., at 764–765. But we limited our review to whether the Executive gave a “facially legitimate and bona fide” reason for its action. Id., at 769. Given the authority of the political branches over admission, we held that “when the Executive exercises this [delegated] power negatively on the basis of a facially legitimate and bona fide reason, the courts will neither look behind the exercise of that discretion, nor test it by balancing its justification” against the asserted constitutional interests of U. S. citizens. Id., at 770.

The principal dissent suggests that Mandel has no bearing on this case, post, at 14, and n. 5 (opinion of Sotomayor, J.) (hereinafter the dissent), but our opinions have reaffirmed and applied its deferential standard of review across different contexts and constitutional claims. In Din, Justice Kennedy reiterated that “respect for the political branches’ broad power over the creation and administration of the immigration system” meant that the Government need provide only a statutory citation to explain a visa denial. 576 U. S., at \_\_\_ (opinion concurring in judgment) (slip op., at 6). Likewise in Fiallo, we applied Mandel to a “broad congressional policy” giving immigration preferences to mothers of illegitimate children. 430 U. S., at 795. Even though the statute created a “categorical” entry classification that discriminated on the basis of sex and legitimacy, post, at 14, n. 5, the Court concluded that “it is not the judicial role in cases of this sort to probe and test the justifications” of immigration policies. 430 U. S., at 799 (citing Mandel, 408 U. S., at 770). Lower courts have similarly applied Mandel to broad executive action. See Rajah v. Mukasey, 544 F. 3d 427, 433, 438–439 (CA2 2008) (upholding National Security Entry-Exit Registration System instituted after September 11, 2001).

Mandel’s narrow standard of review “has particular force” in admission and immigration cases that overlap with “the area of national security.” Din, 576 U. S., at \_\_\_ (Kennedy, J., concurring in judgment) (slip op., at 3). For one, “[j]udicial inquiry into the national-security realm raises concerns for the separation of powers” by intruding on the President’s constitutional responsibilities in the area of foreign affairs. Ziglar v. Abbasi, 582 U. S. \_\_\_, \_\_\_ (2017) (slip op., at 19) (internal quotation marks omitted). For another, “when it comes to collecting evidence and drawing inferences” on questions of national security, “the lack of competence on the part of the courts is marked.” Humanitarian Law Project, 561 U. S., at 34.

The upshot of our cases in this context is clear: “Any rule of constitutional law that would inhibit the flexibility” of the President “to respond to changing world conditions should be adopted only with the greatest caution,” and our inquiry into matters of entry and national security is highly constrained. Mathews, 426 U. S., at 81–82. We need not define the precise contours of that inquiry in this case. A conventional application of Mandel, asking only whether the policy is facially legitimate and bona fide, would put an end to our review. But the Government has suggested that it may be appropriate here for the inquiry to extend beyond the facial neutrality of the order. See Tr. of Oral Arg. 16–17, 25–27 (describing Mandel as “the starting point” of the analysis). For our purposes today, we assume that we may look behind the face of the Proclamation to the extent of applying rational basis review. That standard of review considers whether the entry policy is plausibly related to the Government’s stated objective to protect the country and improve vetting processes. See Railroad Retirement Bd. v. Fritz, 449 U. S. 166, 179 (1980). As a result, we may consider plaintiffs’ extrinsic evidence, but will uphold the policy so long as it can reasonably be understood to result from a justification independent of unconstitutional grounds.[5]

D

Given the standard of review, it should come as no surprise that the Court hardly ever strikes down a policy as illegitimate under rational basis scrutiny. On the few occasions where we have done so, a common thread has been that the laws at issue lack any purpose other than a “bare . . . desire to harm a politically unpopular group.” Department of Agriculture v. Moreno, 413 U. S. 528, 534 (1973). In one case, we invalidated a local zoning ordinance that required a special permit for group homes for the intellectually disabled, but not for other facilities such as fraternity houses or hospitals. We did so on the ground that the city’s stated concerns about (among other things) “legal responsibility” and “crowded conditions” rested on “an irrational prejudice” against the intellectually dis- abled. Cleburne v. Cleburne Living Center, Inc., 473 U. S. 432, 448–450 (1985) (internal quotation marks omitted). And in another case, this Court overturned a state constitutional amendment that denied gays and lesbians access to the protection of antidiscrimination laws. The amendment, we held, was “divorced from any factual context from which we could discern a relationship to legitimate state interests,” and “its sheer breadth [was] so discontinuous with the reasons offered for it” that the initiative seemed “inexplicable by anything but animus.” Romer v. Evans, 517 U. S. 620, 632, 635 (1996).

The Proclamation does not fit this pattern. It cannot be said that it is impossible to “discern a relationship to legitimate state interests” or that the policy is “inexplicable by anything but animus.” Indeed, the dissent can only attempt to argue otherwise by refusing to apply anything resembling rational basis review. But because there is persuasive evidence that the entry suspension has a legitimate grounding in national security concerns, quite apart from any religious hostility, we must accept that independent justification.

The Proclamation is expressly premised on legitimate purposes: preventing entry of nationals who cannot be adequately vetted and inducing other nations to improve their practices. The text says nothing about religion. Plaintiffs and the dissent nonetheless emphasize that five of the seven nations currently included in the Proclamation have Muslim-majority populations. Yet that fact alone does not support an inference of religious hostility, given that the policy covers just 8% of the world’s Muslim population and is limited to countries that were previously designated by Congress or prior administrations as posing national security risks. See 8 U. S. C. §1187(a)(12)(A) (identifying Syria and state sponsors of terrorism such as Iran as “countr[ies] or area[s] of concern” for purposes of administering the Visa Waiver Program); Dept. of Homeland Security, DHS Announces Further Travel Restrictions for the Visa Waiver Program (Feb. 18, 2016) (designating Libya, Somalia, and Yemen as additional countries of concern); see also Rajah, 544 F. 3d, at 433, n. 3 (describing how nonimmigrant aliens from Iran, Libya, Somalia, Syria, and Yemen were covered by the National Security Entry-Exit Registration System).

The Proclamation, moreover, reflects the results of a worldwide review process undertaken by multiple Cabinet officials and their agencies. Plaintiffs seek to discredit the findings of the review, pointing to deviations from the review’s baseline criteria resulting in the inclusion of Somalia and omission of Iraq. But as the Proclamation explains, in each case the determinations were justified by the distinct conditions in each country. Although Somalia generally satisfies the information-sharing component of the baseline criteria, it “stands apart . . . in the degree to which [it] lacks command and control of its territory.” Proclamation §2(h)(i). As for Iraq, the Secretary of Homeland Security determined that entry restrictions were not warranted in light of the close cooperative relationship between the U. S. and Iraqi Governments and the country’s key role in combating terrorism in the region. §1(g). It is, in any event, difficult to see how exempting one of the largest predominantly Muslim countries in the region from coverage under the Proclamation can be cited as evidence of animus toward Muslims.

The dissent likewise doubts the thoroughness of the multi-agency review because a recent Freedom of Information Act request shows that the final DHS report “was a mere 17 pages.” Post, at 19. Yet a simple page count offers little insight into the actual substance of the final report, much less predecisional materials underlying it. See 5 U. S. C. §552(b)(5) (exempting deliberative materials from FOIA disclosure).

More fundamentally, plaintiffs and the dissent challenge the entry suspension based on their perception of its effectiveness and wisdom. They suggest that the policy is overbroad and does little to serve national security interests. But we cannot substitute our own assessment for the Executive’s predictive judgments on such matters, all of which “are delicate, complex, and involve large elements of prophecy.” Chicago & Southern Air Lines, Inc. v. Waterman S. S. Corp., 333 U. S. 103, 111 (1948); see also Regan v. Wald, 468 U. S. 222, 242–243 (1984) (declining invitation to conduct an “independent foreign policy analysis”). While we of course “do not defer to the Government’s reading of the First Amendment,” the Executive’s evaluation of the underlying facts is entitled to appropriate weight, particularly in the context of litigation involving “sensitive and weighty interests of national security and foreign affairs.” Humanitarian Law Project, 561 U. S., at 33–34.[6]

Three additional features of the entry policy support the Government’s claim of a legitimate national security interest. First, since the President introduced entry restrictions in January 2017, three Muslim-majority countries—Iraq, Sudan, and Chad—have been removed from the list of covered countries. The Proclamation emphasizes that its “conditional restrictions” will remain in force only so long as necessary to “address” the identified “inadequacies and risks,” Proclamation Preamble, and §1(h), and establishes an ongoing process to engage covered nations and assess every 180 days whether the entry restrictions should be terminated, §§4(a), (b). In fact, in announcing the termination of restrictions on nationals of Chad, the President also described Libya’s ongoing engagement with the State Department and the steps Libya is taking “to improve its practices.” Proclamation No. 9723, 83 Fed. Reg. 15939.

Second, for those countries that remain subject to entry restrictions, the Proclamation includes significant exceptions for various categories of foreign nationals. The policy permits nationals from nearly every covered country to travel to the United States on a variety of nonimmigrant visas. See, e.g., §§2(b)–(c), (g), (h) (permitting student and exchange visitors from Iran, while restricting only business and tourist nonimmigrant entry for nationals of Libya and Yemen, and imposing no restrictions on nonimmigrant entry for Somali nationals). These carveouts for nonimmigrant visas are substantial: Over the last three fiscal years—before the Proclamation was in effect—the majority of visas issued to nationals from the covered countries were nonimmigrant visas. Brief for Petitioners 57. The Proclamation also exempts permanent resi- dents and individuals who have been granted asylum. §§3(b)(i), (vi).

Third, the Proclamation creates a waiver program open to all covered foreign nationals seeking entry as immigrants or nonimmigrants. According to the Proclamation, consular officers are to consider in each admissibility determination whether the alien demonstrates that (1) denying entry would cause undue hardship; (2) entry would not pose a threat to public safety; and (3) entry would be in the interest of the United States. §3(c)(i); see also §3(c)(iv) (listing examples of when a waiver might be appropriate, such as if the foreign national seeks to reside with a close family member, obtain urgent medical care, or pursue significant business obligations). On its face, this program is similar to the humanitarian exceptions set forth in President Carter’s order during the Iran hostage crisis. See Exec. Order No. 12206, 3 CFR 249; Public Papers of the Presidents, Jimmy Carter, Sanctions Against Iran, at 611–612 (1980) (outlining exceptions). The Proclamation also directs DHS and the State Department to issue guidance elaborating upon the circumstances that would justify a waiver.[7]

Finally, the dissent invokes Korematsu v. United States, 323 U. S. 214 (1944). Whatever rhetorical advantage the dissent may see in doing so, Korematsu has nothing to do with this case. The forcible relocation of U. S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful and outside the scope of Presidential authority. But it is wholly inapt to liken that morally repugnant order to a facially neutral policy denying certain foreign nationals the privilege of admission. See post, at 26–28. The entry suspension is an act that is well within executive authority and could have been taken by any other President—the only question is evaluating the actions of this particular President in promulgating an otherwise valid Proclamation.

The dissent’s reference to Korematsu, however, affords this Court the opportunity to make express what is already obvious: Korematsu was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—“has no place in law under the Constitution.” 323 U. S., at 248 (Jackson, J., dissenting).

\*  \*  \*

Under these circumstances, the Government has set forth a sufficient national security justification to survive rational basis review. We express no view on the soundness of the policy. We simply hold today that plaintiffs have not demonstrated a likelihood of success on the merits of their constitutional claim.

V

Because plaintiffs have not shown that they are likely to succeed on the merits of their claims, we reverse the grant of the preliminary injunction as an abuse of discretion. Winter v. Natural Resources Defense Council, Inc., 555 U. S. 7, 32 (2008). The case now returns to the lower courts for such further proceedings as may be appropriate. Our disposition of the case makes it unnecessary to consider the propriety of the nationwide scope of the injunction issued by the District Court.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Notes

1

5 The dissent finds “perplexing” the application of rational basis review in this context. Post, at 15. But what is far more problematic is the dissent’s assumption that courts should review immigration policies, diplomatic sanctions, and military actions under the de novo “reasonable observer” inquiry applicable to cases involving holiday displays and graduation ceremonies. The dissent criticizes application of a more constrained standard of review as “throw[ing] the Establishment Clause out the window.” Post, at 16, n. 6. But as the numerous precedents cited in this section make clear, such a circumscribed inquiry applies to any constitutional claim concerning the entry of foreign nationals. See Part IV–C, supra. The dissent can cite no authority for its proposition that the more free-ranging inquiry it proposes is appropriate in the national security and foreign affairs context.

6 The dissent recycles much of plaintiffs’ §1182(f ) argument to assert that “Congress has already erected a statutory scheme that fulfills” the President’s stated concern about deficient vetting. Post, at 19–21. But for the reasons set forth earlier, Congress has not in any sense “stepped into the space and solved the exact problem.” Tr. of Oral Arg. 53. Neither the existing inadmissibility grounds nor the narrow Visa Waiver Program address the failure of certain high-risk countries to provide a minimum baseline of reliable information. See Part III–B–1, supra.

7 Redacted